

CHARTER COMMISSION MEETING  
TUESDAY, AUGUST 10, 2010 – 7 P.M.

Chair Ladakakos opened the regular meeting at 7:06 p.m., in Town Hall, Council Chambers.  
The following members were in attendance:

Jerome Begert  
John Bird  
Jayne Flaherty  
William Gombar  
Tianna Higgins, arrived after motion to accept minutes  
Ronald Regis  
Michael Vallante

The members of the Charter Commission stood for a Pledge to the Flag.

Motion made by Commissioner Begert, seconded by Commissioner Flaherty, to accept the minutes of July 27, 2010.

VOTE: Commissioners Begert, Bird, Flaherty, Gombar, Regis, Vallante, yea; Chair Ladakakos abstained. Motion passed.

Chair Ladakakos read Article I, sections 101 and 102, including the proposed amendments in section 102.

Commissioner Higgins motioned, seconded by Commissioner Flaherty to keep section 101 as written in current Charter.

VOTE: Unanimous.

Commissioner Regis recommended adding the words “within limits” to the following sentence:

“The Town shall have, exercise and enjoy all the rights, immunities within limits, powers, privileges and franchises, and shall be subject to all the duties, liabilities and obligations, provided for herein, or otherwise pertaining to or incumbent upon said Town as a municipal corporation, or the inhabitants or municipal authorities thereof;”

Commissioner Begert agreed, but stated that at the end of that paragraph, it does state that “it may enact bylaws, regulations and ordinances not inconsistent with the Constitution and laws of the State of Maine...”.

Commissioner Begert then stated he had the following recommendations for the last paragraph in the current Charter for section 102, recommending to change the word “liberally” to “scrupulously” and removing the word “convenient”:

The Charter shall be ~~liberally~~ scrupulously construed to the end that the Town may have all the powers necessary or ~~convenient~~ for the conduct of its municipal affairs, including all the powers the Town may assume pursuant to state laws and to the provisions of the State Constitution.”

Commissioner Flaherty suggested removing “liberally” only, and not replacing it. Commissioner Higgins concurred.

Referring back to paragraph one, Commissioner Regis concurred with Commissioner Begert reference the word “immunities”, and suggested to remove the word.

Commissioner Gombar was concerned about the police/fire departments having immunities, and believes there is a legal reason that word is in there.

Commissioner Higgins recommended the Charter Commission ask the Town Attorney if they can remove the word “immunities” before any further action is taken.

Commissioner Begert stated they could compromise and just remove the words “or convenient” in the last sentence in the fourth paragraph.

Commissioner Vallante stated the Charter Commission should have a legal opinion on the ramifications of removing “convenient”, believing there may be a legal reason for that word.

The Charter Commission agreed by a show of hands that no action would be taken reference the word “convenient” until a legal opinion was received.

Vice-Chair Bird started discussion on the recommended additions to section 102:

“The Government of the Town shall be made up of three parts: Legislative and Policy-making; Administrative; and Adjudicative and Advisory.

The Legislative and Policy-making Branch of the Town Government shall consist of a Town Council, which shall be the Representatives of the People of the Town, enact the bylaws, regulations and ordinances, set the governing policies and guide the affairs of the Town.

It is the obligation of every public official and employee to carry out the lawful orders and policies of the Town Council. No public official, employee or appointee shall knowingly take any action inconsistent with the lawful orders or policies established by the Town Council and no public official or employee shall knowingly take any action which would be detrimental to the best interests of the Town.

The Administrative Branch of the Town Government shall consist of a Town Manager, an elected Town Clerk and various Department Heads, who shall manage the daily operational and administrative affairs of the Town according to the direction and policies of the Town Council and this Charter and pursuant to state laws and to the provisions of the State Constitution.

The Adjudicative and Advisory Branch of the Town Government shall consist of such various Boards, Commissions, and Committees as set forth in this Charter or as may be created from time to time by the Town Council, including, but not limited to, a Planning Board, Zoning Board of Appeals, Conservation Commission and others. They shall consider initial appeals under various policies and ordinances and such other duties as set forth in this Charter or as assigned by the Town Council, and provide advice to the Town Council.”

Vice-Chair Bird stated these paragraphs are mostly to define how the Town government works, as part of the educational process. He suggested it would be useful for people reading the Charter.

Commissioner Vallante stated that this language defines duties and should have its' own section. It may need to be placed in more appropriate places, and not necessarily all together.

Vice-Chair Bird stated that it should all be together, and that it brings all the basics to the front.

Commissioner Vallante commented that it does need to be clearly organized. When it discusses the functions of the Town Council, the definition should be placed in that section.

Commissioner Vallante stated that if the Charter Commission can agree that the three parts of the Town government should be added, then just state that and place the other sections into the appropriate sections of the Charter.

Commissioner Gombar suggested incorporating this information into a new section, #103, and title it "Branches of Town Governance".

Commissioner Higgins stated that she agrees that the first and second suggested paragraphs should be in section 102, but perhaps sections three, four, and five may belong somewhere else.

Commissioner Gombar stated he believes paragraphs four and five belong in section 102.

Commissioner Begert stated that paragraph two talks about the legislative and policy branch, and should include other branches, as well.

Commissioner Higgins thought this was too wordy, and is repeated in other sections.

Vice-Chair Bird suggested that maybe the third paragraph could be moved to the Town Council section, but the others need to remain.

Commissioner Vallante stated that paragraph two does more than just define. It talks about the duties of. If the second paragraph is to remain, it should end with "People of the Town." The rest belongs in the section that defines the duties of the Town Council. Structures and functions need to be in a separate section. Commissioner Flaherty concurred.

Commissioner Begert stated the section that states what the different branches do should be left in section 102.

Commissioner Higgins was concerned that it was also repeated in other sections.

Commissioner Gombar stated the fourth paragraph should end with "various Department Heads".

Commissioner Begert stated the third paragraph does not modify the Town Council, it modifies Administration. It should come after the fourth paragraph.

Commissioner Higgins stated that the fourth paragraph should end with “affairs of the Town”. It shouldn’t get into the rules and obligations in that section. It should just explain what the Town is made up of. The rules should be in another section.

Commissioner Flaherty felt the Charter Commission agreed these paragraphs should be in the Charter, just where in the Charter. She said it doesn’t all need to be in section 102.

Commissioner Higgins motioned, seconded by Commissioner Vallante, to place these five paragraphs into a newly created Section 102, titled “Town Governance”, to be edited later.

VOTE: Unanimous.

Commissioner Higgins motioned, seconded by Vice-Chair Bird to approve section 102 as amended with the words “or convenient” removed.

VOTE: Unanimous.

Chair Ladakakos read Article II, section 201.

Commissioner Higgins was concerned reference the words “Regional School Unit #23”. She felt that #23 should not be included, as it can be subject to change under the State law. Commissioners Regis and Vallante concurred.

Commissioner Higgins recommended adding the word “the” before Regional School Unit.

Vice-Chair Bird stated that it should be noted that wherever #23 is mentioned, it should be changed to “the Regional School Unit”.

Commissioner Begert stated that the Charter is supposed to be a timeless document. The schools may change to the County, local, or other department, so maybe it should be a generic term, “education system”.

Commissioner Regis stated that if the Regional Unit disperses, there should be something in the Charter that states the section regarding the schools reverts back to the former Charter. Commissioner Gombar concurred.

Commissioner Begert suggested adding “Charter Commission” into the subtext of section 201, because every ten years the Town elects a Charter Commission. Commissioner Regis concurred.

Chair Ladakakos and Commissioner Higgins disagreed, stating the Charter Commission should not be added.

Chair Ladakakos asked for a show of hands as to whether to add the Charter Commission to section 201. Commissioner Vallante abstained. Commissioner Regis and Begert were in favor and Commissioners Higgins, Flaherty, Gombar, Vice-Chair Bird, and Chair Ladakakos were against. By show of hands, the Commission will not add “Charter Commission” to section 201.

Commissioner Regis recommended adding “of the Town of Old Orchard Beach” to the Title of Article II, “ELECTED OFFICERS, NOMINATIONS AND ELECTIONS OF THE TOWN OF OLD ORCHARD BEACH”.

Commissioner Higgins felt it was unnecessary, and Vice-Chair Bird felt it was redundant.

Commissioner Regis stated that he felt that either the Charter Commission should be listed as part of the elected officials, or “of the Town of Old Orchard Beach” should be placed in the Title.

Commissioner Higgins recommended that the Charter Commission get a legal opinion prior to adding “Charter Commission” to the list of elected officials in section 201.

Vice-Chair Bird read the State law regarding Charter Commissions. Commissioner Begert then recommended not to include the Charter Commission in section 201, but to place an addendum to the Charter referring to the State Law.

Commissioner Regis motioned, seconded by Commissioner Begert to amend the Title of Article II to read “ARTICLE II. ELECTED OFFICES, NOMINATIONS AND ELECTIONS OF THE TOWN OF OLD ORCHARD BEACH”.

VOTE: Vice-Chair Bird, Commissioners Gombar, Regis, and Flaherty, and Chair Bird voted in favor; Commissioners Vallante and Higgins voted against. Motion passed 5-2.

Commissioner Higgins motioned, seconded by Commissioner Regis to ask Attorney Vaniotis to advise if the Charter Commission can or should be added to section 201.

VOTE: UNANIMOUS.

Chair Ladakakos read section 201.1

Commissioner Regis recommended changing the Town Councilors to seven members, and Commissioner Higgins concurred.

Commissioner Higgins felt that Vice-Chair Bird’s recommendation of six members would make things difficult.

Commissioner Begert states that he understands the concept of six, but prefers nine. He then stated he would compromise with seven. He also wouldn’t mind term limits.

Vice-Chair Bird stated that he suggested six as an even number so the same amount of Town Councilors are elected every year. There wouldn’t be a major turn over in any one year. It makes the process even and more stable. He then answered questions regarding a tie vote. He said it works the same as seven members. The Town Council would still need four votes to pass an item. He also felt changing to six members wasn’t as drastic as changing to seven.

Commissioner Begert stated he understood the number theory; however six is not enough Town Councilors because of their different sovereign minds.

Commissioner Regis stated he likes the idea of nine members.

Commissioner Higgins stated that she is on other Boards in Town and they usually have five regular members and two alternates. The alternates can state their opinions, but they can’t vote

unless a regular member is absent. Having seven Town Councilors will help, because more likely than not, as least five members will be at a meeting.

Chair Ladakakos agreed with seven Town Councilors, stating there would be more members to vote on a debated item.

Commissioner Flaherty stated she was absent from some of the earlier meetings, and inquired if there had been discussion in reference to districts in her absence.

Commissioner Gombar stated that when Councilor Laura Bolduc was on the Charter Commission, she addressed that question as a former Charter Commission member in the 90's. She said it was too complicated for the size of Old Orchard Beach. He made a suggestion for the beginning terms of the Councilors, stating six should have three-year terms and one should have a one-year term, and then each of the six would have three-year terms and one would have a one-year term moving forward.

Chair Ladakakos asked about the possibility of eight Town Councilors.

Commission Regis stated that one could be used as an alternate.

Commissioner Begert stated there should be nine Town Councilors. There would be three members elected each time, and never an uneven influence.

Commissioner Higgins asked what other Towns with seven members do for the election process, and asked Town Clerk Kim McLaughlin to check on that.

Chair Ladakakos asked for a show of hands as to the recommended number of Town Councilors. For six, there was one yes and six no; for seven, there were five yes; and for nine there were two yes.

Commissioner Higgins stated she preferred to wait to see what other Towns do for term limits before she decides.

Vice-Chair Bird asked how they solve the odd-person election.

Commissioner Begert motioned to cease formal discussion of the document to allow for good and welfare, seconded by Commissioner Higgins. A formal vote was not taken.

Vice-Chair Bird suggested the Commission provide DVD's for each member of the Charter Commission meetings for review, to be retroactive to the first televised meeting.

Vice-Chair Bird motioned, seconded by Commissioner Begert spend funds to have DVD copies made of all recorded Charter Commission meetings—ten copies, retroactive to the first televised meeting, not to exceed \$150.00.

VOTE: Unanimous.

The meeting was adjourned at 9:14 p.m.

Respectfully Submitted.

Kim McLaughlin  
Town Clerk

I, Kim McLaughlin, Town Clerk of Old Orchard Beach, do hereby certify that the foregoing document consisting of seven (7) pages is a true copy of the original Minutes of the Charter Commission Meeting held August 10, 2010.

Kim M. McLaughlin